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California Focus: Big government goes after its foes

Backers of initiatives to limit state power targeted for criminal prosecution

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Vendetta criminal indictments, prison time for petitioning, felony charges for circulating an initiative? No, this isn't the story of the pro-democracy monks persecuted in Myanmar; it's a summary of political retaliation in Oklahoma! Yes, that's Oklahoma, USA, where the political winds come sweepin' down the plain with criminal indictments.

A grand jury in the Sooner State this month unsealed indictments against three activists for limited government whose sole crime was circulating a Taxpayer Bill of Rights for last November's election. Oklahoma Attorney General Drew Edmondson, leader of this political witch hunt, is pioneering the Left's latest political tactic of prosecuting conservatives under unconstitutional state restrictions on the initiative process.

California, historically a nationwide initiative trendsetter, has reason to fear the westward expansion of this frightening new political tactic. This year, conservatives can thank Gov. Schwarzenegger for vetoing an attempt by liberals in the state Legislature to bring Sooner-style restrictions on the initiative process to the Golden State.

Under Oklahoma law, only registered Oklahoma voters are allowed to circulate petitions. It is under that provision that the Oklahoma Supreme Court threw out State Question 726, known as the "Stop Over Spending" initiative, because of "substantial illegal participation of out-of-state circulators." Unhappy with simply defeating the initiative, liberals then turned their attention to prosecuting the initiative's three proponents on felony charges. If convicted, the three each face up to 10 years in prison and \$25,000 fines.

Liberals know that they cannot defeat spending caps at the ballot box, so they are increasingly turning to restrictions on the initiative process to defeat conservative activists.

That's why California legislative liberals introduced, passed and sent to the governor Senate Bill 408, which would bring Oklahoma's unconstitutional initiative restrictions to our state. Just like Oklahoma's law, SB408 would create a durational residency requirement to circulate a petition and, consequently, deny First Amendment rights to new California residents.

SB408 is only the California left's most recent attempt to gut the initiative process. In just the past two legislative sessions, California Democrats have proposed measures to ban paid initiative circulation, compel petition circulators to announce whether they were paid or volunteer and force circulators to disclose the initiative's major donors.

It doesn't take a first-year law student to see the unconstitutionality of these restrictions. The U.S. Supreme Court, which has repeatedly displayed its contempt for political speech in campaign finance reform cases, ruled in a 1988 case, *Meyer v. Grant*, that circulating an initiative petition was "core political speech" protected by the First Amendment – even if the circulator was paid. In 1999, the court ruled in *Buckley v. American Constitutional Law Foundation* that residency restrictions and compelled speech mandates are unconstitutional .

This month at the Western Conservative Political Action Conference, I was joined by the West Coast's leading anti-tax activists, including Lew Uhler, president of the National Tax Limitation Committee, and Jon Coupal, president of the Howard Jarvis Taxpayers Association, on a panel discussion titled, "Fiscal Conservatism through Direct Democracy." One recurring theme became clear throughout the discussion: The limited-government movement needs a vibrant initiative process.

Liberals understand that the initiative process is the most devastating weapon against the modern administrative state. It's the initiative process that brought us Proposition 13's landmark reduction in property taxes, Prop. 218's necessary limitations on tax increases, Prop. 140's term limits for career politicians, and Prop. 184's "Three Strikes, You're Out" law for repeat felons.

The initiative process was born in an October 1911 special election that sprang from voter frustration with the Legislature. It's fitting that the governor, himself brought to power by a recall initiative, protected the initiative process in California on its 97th birthday. Gov. Schwarzenegger deserves credit for preserving this important tool of the conservative movement.